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Via E-mail

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United States Attorney's Office
Southern District of New York
1 Saint Andrews Plaza
New York, New York 10007

Re: United States v. Avraham Eisenberg
23 Cr. 10 (AS)

Dear Counsel:

As you know, on behalf of our client Avraham Eisenberg, we submitted a Touhy demand for the testimony of FBI Special Agent Brandon Racz on March 26, 2024. In response, the government e-mailed:

. . . [P]lease provide a detailed summary of the testimony you anticipate eliciting from Special Agent Racz pursuant to 28 CFR § 16.23(c)? The summary must provide sufficient detail about the anticipated testimony to allow the [g]overnment to make an informed determination about the applicable regulations and whether there are grounds to quash.

Although we continue to believe the initial demand is more than satisfactory under the law, to try to resolve this issue short of bringing it before the Court for adjudication, we provide the following more detailed summary of the topics we may seek testimony on from Special Agent Racz:

1. Disclosed statements (as defined in 18 U.S.C. § 3500 and Federal Rules of Criminal Procedure 16 and 26.2) and reports prepared as a result of the FBI's investigation relating to the above-captioned case. [This is in anticipation of a government witness testifying inconsistently with a prior statement made during an interview during which SA Racz was present, making him a competent witness to testify as to the prior inconsistent statement.]
2. Analysis of the underlying facts pertaining to the prosecution of Mr. Eisenberg in above-captioned case, including but not limited to the FBI's assessment of the alleged conduct



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at issue as reflected in materials the government has disclosed to the defense. [We would not seek to ask SA Racz about classified information or confidential sources; however, we would seek to question him about other types of investigatory steps that are referenced in disclosed materials.]

We appreciate your attention to this important matter.

Sincerely,

Brian E. Klein
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Riley P. Smith
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-and-

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